
Minutes

Board of Natural Resources

April 5, 2005
Natural Resources Building, Olympia, Washington

BOARD MEMBERS PRESENT

Doug Sutherland, Commissioner of Public Lands
Terry Bergeson, Superintendent of Public Instruction
Bob Nichols for Governor Christine Gregoire
Ted Anderson, Commissioner, Skagit County

BOARD MEMBERS ABSENT

Bruce Bare, Dean, University of Washington, College of Forest Resources
R. James Cook, Interim Dean, Washington State University, College of Agricultural, Human, and Natural Resource Sciences

CALL TO ORDER

Chair Sutherland called the meeting to order at 9:45 a.m. on, April 5, 2005, in Room 172 of the Natural Resources Building.

APPROVAL OF MINUTES

MOTION: Superintendent Bergeson moved to approve the March 1, 2005, Board of Natural Resources Meeting Minutes.

SECOND: Commissioner Anderson seconded.

ACTION: Motion passed unanimously.

ESA Compliance for Aquatic Lands (Handout 1)

Carol Piening, Aquatic Resources, presented. She began by stating that DNR is responsible for 2.4 million acres of aquatic lands. She explained that the six-member Aquatics Endangered Species Act (ESA) team is responsible for developing a comprehensive compliance plan to ensure that the aquatic lands DNR manages are in compliance with other agencies; she stated that her team feels that this plan is critical to providing good stewardship of aquatic lands. Ms. Piening noted that up to this point the project had been worked on within the Department but would soon crossover to the public to gather information and to ask for public input. She stated that the Board wouldn't be required to act on products of the HCP but as the project moves ahead, in the future, the Board may be asked to take action on rules or harbor line areas that are related to the implementation of the plan. She conveyed that the ESA team goal is to create a long-term workable plan that will ensure that DNR's management of state owned aquatic lands is in compliance with the Endangered Species Act. She stated the following as three objectives the team would like to achieve: To protect the state's proprietary interests; minimize DNR's financial and legal liability; manage habitat in a way that contributes to reduced risk of extinction and aids in species recovery. She gave a brief timeline of other projects comparable to the plan aquatics is working on:

- 1997 Habitat Conservation Plan for State Trust lands (1.6 million acres)
- 2005 Forest Practices Habitat Conservation Plan (9.1 million acres)
- 2008 Possible Aquatic Resources Habitat Conservation Plan (2.4 million acres)

Ms. Bergeson asked what comparable meant in this context as far as there being an actual HCP or something other than that.

Ms. Piening explained that at this point she is not entirely sure that it would be an HCP; public input is needed to better determine the correct approach. She said that the tools available to comply with ESA include HCP's but there are other Federal Assurances. If the activities of the Department are already thoroughly federally reviewed a state comprehensive plan may not be necessary. The analysis hasn't been completed to date.

Ms. Piening moved on to plan development giving the following outline:

- Information gathering ~ 2003-2005+
 - Drafting Plan and EIS ~ 2004-2007
 - o Meeting with interested parties to gather information and input
 - o Periodic check-ins with the Board of Natural Resources (draft documents, start of formal scoping, other?)
- Formal Public Review ~ 2007
 - o Draft plan
 - o Environmental Impact Statement (NEPA/SEPA)
- Finalize Plan and Begin Implementation ~ 2008

She referenced RCW 79.90.455 as the driver for how DNR is supposed to manage aquatic lands. This encompasses activities such as, encouraging direct public use and access, fostering water dependent use, ensuring environmental protection for a wide variety of organisms, and utilizing renewable resources such as subtidal and intertidal shellfish harvest; this RCW also directs DNR to produce revenue consistent with those items previously listed.

Ms. Piening talked about the relationship with existing DNR HCP's listing the following:

- Lands ~ submerged lands rather than forestlands.
- Activities ~ water based commerce, habitats and access rather than forest-based activities
- Where there are overlaps, existing plans take precedence.

Ms. Bergeson noted that a couple of years ago the Board of Natural Resources retreat had been held in Bellingham and the Board members had the opportunity to see the Bellingham Bay clean-up activity. She wondered if the ESA team would be looking at major issues similar to that.

Ms. Piening said yes, the goal is to develop a comprehensive plan for all managed aquatic lands and any work that has already been done would be incorporated into the plan.

Ms. Bergeson commented that the project being discussed today reminded her of the projects that high school kids are going to be required to complete before graduation, she mentioned that there might be young scientists who would appreciate the opportunity to work on projects such as this.

Ms. Piening said she'd be interested to find a way to tap into that resource. They agreed to keep in touch on that issue.

Mr. Anderson asked how far out DNR shorelines are.

Ms. Piening was not exactly sure but later in the meeting came back with the answer: DNR lands start at the “seashore conservation line”, which usually coincides with extreme low tide, and extend out to the state line (3 miles). The “seashore conservation area” managed by state parks extends between the ordinary high tide and extreme low tide.

Ms. Piening felt that one of the challenges with this project would be to take advantage of local initiatives where they’ve happened and to work with local planners. However, she noted that her main focus is DNR’s role as land manager rather than pollution control authority; she agreed that it would be tricky to stay focused on what land is DNR’s to manage.

Mr. Nichols asked if aquatic reserves would be incorporated into this plan.

Ms. Piening felt that it would be included.

Mr. Nichols asked how run-off on sub-merged DNR land is dealt with.

Ms. Piening said it’s a cross-jurisdictional issue because DNR can claim that lands are being affected by run-off but the Department has no authority to regulate it.

Mr. Nichols wanted to know if the Federal Services could still sign off on an HCP, realizing that pollution from run-off is out of DNR’s control.

Ms. Piening said she felt that the discussions with the Federal Services would really have to focus on what’s within DNR’s responsibility.

Mr. Nichols asked if the Federal Services had been shying away from HCP’s.

Ms. Piening responded that her impression was that the Federal Services are most interested in organizations that have a lot of land to offer; if DNR were to come to them with 2.4 million acres they would feel it was worth the effort to develop an HCP.

Ms. Bergeson wanted to make clear that if an HCP were developed, in regard to pollution, it would be clear that DNR doesn’t have control over that. She noted that it would be beneficial to collaborate with the counties to open up awareness of this issue.

Mr. Anderson agreed.

Ms. Piening added that DNR is already talking to the Puget Sound Action Team and Department of Ecology. She mentioned that those talks would continue and include more agencies and organizations.

Ms. Piening talked about navigability and state ownership stating that in general terms major rivers, major lakes, and waters underneath the saltwater are the land base being discussed today. She continued her presentation moving on to species. She explained that the analysis began with a comprehensive list of endangered, threatened or concerned species taken from state and federal lists, which resulted in 964 species. The next step was to determine if the species occur on state owned aquatic lands, how much they depend on those lands and would being included in an HCP provide a benefit to those species. By asking those questions the list was trimmed down to 86 species, which are currently being analyzed. She

indicated that there are 3,000 active leases, easements, and other agreements on state owned aquatic lands which have been lumped into seventeen categories. She informed the Board that the ESA team received a federal grant to begin some of the analyses and that DNR now had a contract with a firm that would look at the distribution of species, habitats, and the activities that are permitted by DNR and where they overlap. She talked about the mechanisms of take in terms of the ESA and added that the firm would be looking at what things DNR could be doing to avoid or minimize any impact from DNR activities.

Ms. Bergeson wanted to know the definition of “take”.

Ms. Piening said in ESA terms it means” to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect a species, and that can include damaging a species habitat”.

Ms. Piening stated that the deliverables in this project are to have a comprehensive ESA compliance plan, an HCP, or something similar. There would also be an Environmental Impact Statement to analyze the impacts of the plan and then a final implementation plan, all of this to be achieved by 2008. She then named the ESA Team members as follows: Phil Bloch ~ Scientist, Carol Cloen ~ Lead Scientist, Elizabeth Ellis ~ Planner, Carol Piening ~ Team Lead, April Vanderhoof ~ Office Assistant Senior, Linda Wagoner ~ Planner.

Mr. Nichols looked at the map and wondered if the plan applied to marine areas only or if it included riparian areas.

Ms. Piening said the plan would include the lands that underlie the navigable waters of the state, both salt and fresh.

Mr. Nichols asked if this would factor into the watershed planning effort being done by other groups.

Ms. Piening said DNR is trying to communicate with the other agencies working on salmon planning.

Mr. Nichols said that he felt this was a critical partnership and that this plan could have a significant contribution to salmon recovery.

Mr. Nichols asked if the ESA team was actively talking to the people involved in salmon recovery.

Ms. Piening said they are beginning to start those conversations and would continue to become more involved.

Mr. Anderson asked if DNR would be using the federal definition of navigable waters.

Chair Sutherland pointed out WAC 332-30-106 “Navigability or navigable” means that a body of water is capable or susceptible of having been or being used for the transport of useful commerce. The state of Washington considers all bodies of water meandered by government surveyors as navigable unless otherwise declared by a court.

Ms. Piening said that the state definition is narrower than the federal definition as far as what is considered commerce.

Chair Sutherland asked if the plan included bedlands, tidelands and shorelines that are still owned by the Department.

Ms. Piening said it's all three and gave a breakdown of state ownership: bedlands, 100%; tidelands, 30%; shorelands, 70%. The ESA team is going to have to characterize ownership accurately so it doesn't interfere with people who have legally bought and own their tidelands.

Mr. Anderson asked about tribe access.

Ms. Piening said the tribes' rights remain as is.

Chair Sutherland explained that there had been places where bedlands were filled and platted, which are still under DNR ownership.

Ms. Piening added that another question her team would be dealing with is whether or not they are writing a plan for aquatic lands that still function for aquatic purposes or for all DNR lands. She felt that it would be more beneficial to manage aquatic lands that still function for that purpose.

TIMBER SALES (Action Item)

Proposed Timber Sales for May 2005 (Handout 2)

Mr. Tweedale began with the March 2005 Sales Results:

15 sales offered, 15 sold; 58.4 mmbf offered, 58.4 mmbf sold; \$14.8 million minimum bid, \$20.8 sold; \$254/mbf offered, \$355/mbf sold; average number of bidders, 4.5; 40% above minimum bid.

He said that he's continuing to see strength in the marketplace, housing starts took another jump, and housing debt seems to have eased off. He said there has been a good momentum this year on pricing and demand, which shows in the number of bidders. He pointed out that an additional two new bidders showed up at the table this month.

He talked about FY05 saying that the goal was 560 plus carryover from FY04 of about 10 million board feet. He said the goal of 570 million would be achieved. He said he would bring more information next month.

Proposed May 2005 Board Sales:

13 sales with 60.7 mmbf-3 contract harvest sales; \$14.3 million minimum bid stumpage; average \$236/mbf stumpage

Mr. Nichols asked about the SEPA comments and if they were resolved.

Mr. Tweedale said the concerns had been met.

MOTION: Superintendent Bergeson moved to approve the March 2005 Timber Sales.

SECOND: Commissioner Anderson seconded.

ACTION: Motion passed unanimously.

CHAIR REPORTS

Policy for Sustainable Forests

Bruce Mackey, Craig Partridge, & Clay Sprague came forward to continue their ongoing monthly presentation on the Policy for the Sustainable Forests Plan.

Clay Sprague, project manager, for the development of Policy for Sustainable Forests, presented.

Today's Agenda

He said his plan for today's meeting would be to review the changes made in the discussions and policy statements of the subjects the Board discussed in March. He would also discuss five more policy subjects; Forest Land Planning, Research, External Relationships, SEPA Review, Implementation, Reporting, and Modification. He added that the final two topics, Older Forests and Old Growth, and Public Access and Recreation would be presented at next month's meeting.

March Policy Subjects Review

Wildlife Habitat

Mr. Sprague highlighted the following changes made to this policy:

- Emphasize Department's conservation efforts and focus on biodiversity as a fundamental guiding principle for sustainable forest management
- Focus "recover and restore" on habitat and "protection" on species

Local Economic Vitality

The following changes were made to this policy:

- Legal advice - as long as "compatible with trust requirements" is stated
- Two options for emphasizing compatible with trust

Mr. Sprague said that after consulting with legal counsel, DNR is confident that the subject policy is compatible with DNR's fiduciary responsibilities. He said there would be two options as to how the policy would read, option A would be softer than option B.

Ms. Bergeson asked if the Board should choose today.

Mr. Partridge said yes.

Ms. Bergeson wanted to clarify that option A and B said essentially the same thing.

Mr. Sprague said that was correct and that he had separate conversations with Dr. Bare and Dr. Cook, who both supported option A.

Mr. Nichols said his preference would be option A as well.

Ms. Bergeson agreed.

Commissioner Anderson and Chair Sutherland agreed with option A.

Mr. Partridge said there was mutual agreement on option A.

General Silvicultural Strategy

Mr. Sprague explained that the Board had moved away from the on-base/off-base terminology in the SHC and instead talked about long-term and short-term deferrals, he noted that they would reflect that same idea in the PSF.

Roads

- "Protecting and Enhancing" trust asset to deal with fire protection

- Emphasize minimizing roads is a strategy to reduce environmental impacts
- Key relationship to Public Access and Recreation – bring back after that discussion

Mr. Sprague said the word “protect” was added in the first statement.

Ms. Bergeson stated that this was really a balancing act between public use and the impact on the environment.

Mr. Partridge reminded the Board that the policy already included economic diversification, which indicated some potential for diversifying into commercial aspects of recreation if that proved prudent in the future. That would also potentially have an effect on how DNR implements the road system policy as well.

Forest Land Transactions, Acquiring Rights of Way, Granting Rights of Way

Mr. Sprague mentioned that while not having policies it’s important to recognize in the document the importance of transactions and what policies govern, and where can they be found.

Mr. Partridge said that last month the Board made it clear that they wanted the public to know where all of the policies were and if there were changes then it would be clearly communicated as to where the public could go to find any given policy. Mr. Partridge said this issue would be addressed in the introductory material.

Mr. Nichols asked when they would see that document.

Mr. Sprague said there would be a first rough draft in July.

Chair Sutherland noted that the project for the PSF would extend until September or October under the existing rules set in 1992.

New Policy Topics

Forest Land Planning (Errata Sheet #8)

- 2 alternatives - 1 focused on developing plans by setting management objectives at a landscape level, defined as WAU, 10,000 to 50,000 acres in scale.
- Department recommended (alternative 2) focuses planning at larger scales (HCP Planning unit size - 100,000’s acres). We can do this due to:
 - 1) Increasing technology,
 - 2) Better forest inventory information,
 - 3) More cost effective
- Defines the purpose of forest land planning to:
 - 1) Clearly describe outcomes and objectives to be achieved as determined by Board policy and state and federal law
 - 2) Develop strategies to achieve outcomes
 - 3) Promotes adaptive management through communication and feedback
- May use different scales to address unique circumstances
- Utilize SEPA to:
 - 1) Communicate outcomes and objectives to be achieved
 - 2) Identify local and regional issues to be considered
 - 3) Develop and analyze strategies to achieve outcomes
- Develop forest land plans over time based on priority, staffing and budget

- Integrate existing plans within new forest land plans

Mr. Nichols asked if there was any acknowledgement in this policy regarding the available tools necessary for landscape planning.

Mr. Sprague said yes they had the capability to do that and would be able to focus on other issues on a smaller scale as needed.

Ms. Bergeson asked what the different scales to address unique circumstances meant.

Mr. Sprague explained that this would assist in focusing on issues on a smaller scale to deal with cumulative effects.

Mr. Partridge said they would add geographic scale to make it clearer.

Mr. Anderson asked if the purpose of the landscape planning was to block up state land outside of HCP's to manage landscape land over a larger area.

Mr. Sprague said that was correct and that there would be more flexibility to achieve DNR's objectives on a broader scale.

Ms. Bergeson asked about the mapping tool and stated that it's critical that the demonstration in May shows the accuracy of planning on a larger scale.

Mr. Mackey explained that by going at the larger scale it shows that DNR is attempting to do more top down planning, by that he meant that the Department has very broad HCP goals, very clear environmental goals, and economic goals, which need to be consistent across the landscape.

Mr. Nichols asked if there was a way to reference or have a status report on an annual basis of where DNR is at in terms of landscape planning.

Mr. Mackey said they would include that in the policy.

Ms. Bergeson expressed her concern that the public be informed about the new tools that DNR is using and the differences technology has made as far as planning compared to ten years ago.

Research (Errata Sheet #9)

- 3 alternatives that all build from alternative 1 that emphasizes applied research
- Alternative 2 & 3 focus on the Olympic Experimental State Forest to meet the research commitments of the HCP; and emphasize the importance of cooperatives in helping department meet its research commitments and objectives
- Alternative 3 (recommended) adds importance of staying current with latest science and technology to practice best science

Chair Sutherland explained that DNR is currently working on the private side of the HCP statewide for Federal Assurances. He noted that in that document it spells out a significant part of adaptive management. He wondered if it made sense to make the connection of an adaptive management approach in the PSF.

Mr. Partridge said they could list examples of various cooperative relationships the Department has, some of which are to University based coops but also to the regulatory side. He said they could spell this out to make it more meaningful.

Ms. Bergeson went back to the SHC and explained that the foundation of adaptive management is research and applied research.

Mr. Partridge commented that a distinction between the second and third alternative is one of applied research versus pure research identity. He added that although the policy indicates that DNR will be a very explicit science based organization, there's a principle of efficiency and collaboration in how the science is incorporated.

Mr. Anderson commented that he agreed with Commissioner Sutherland's suggestion of tying adaptive management into the policy.

External Relationships (Errata Sheet #10)

- 2 Alternatives
- Current policy focuses on collecting or soliciting public comments during landscape planning and implementation of FRP policies
- Recommended promotes communication and collaboration with public, tribes, agencies, and stakeholders in carrying out all department activities - More reflective of what we do today

SEPA Review (page 42)

- 2 alternatives - #1 says we will comply with SEPA; #2 (recommended) says we don't need a policy to say we will comply with state law
- May want to consider the value of continuing to state in policy the Department's adherence to the State Environmental Policy Act.

Mr. Partridge informed the Board that at the time the Forest Resource Plan was adopted there was an on-going discussion about the degree to which SEPA specifically applied to some of the Department's planning and implementation steps. Currently there is no question about what is subject to SEPA and what's not; therefore the general approach to policy is there isn't a need for one where WAC's and statutes are clear. He felt that this was an example of where the statute and the WAC are clear and the Department is meeting that obligation.

Chair Sutherland felt that although it's redundant it might help readers who are not aware of what the Department does.

Mr. Partridge said one option could be to include a section of the introduction that talks about the legal obligations underlying the policy document including a statement that DNR complies with the Endangered Species Act, Clean Water Act, Conservation Plans, etc.

Mr. Partridge said he would come back with a proposal for the above-mentioned changes for Board approval next month.

Implementation, Reporting, and Modification (page 42)

- 3 alternatives - strengthen direction to monitor and report to the Board

- Alternatives 2 and 3 direct the Department to use a structured monitoring and annual reporting program to the Board on implementation of board policies including sustainable harvest implementation.
- Both alternatives direct the Department to recommend changes in policy to the Board based on the results of monitoring.
- Alternative 2 directs the Department to do a substantive review and update of the Policy for Sustainable Forests at 10 year intervals. PSF has a 10-year lifespan.
- Alternative 3 (recommended) directs the Department to carry out substantive reviews of the plan at 5-year intervals and update as needed. The PSF has no sunset date or lifespan, its dynamic and evolving over time.

Mr. Nichols expressed his concern that reporting becomes too complex for the general public to truly grasp.

Mr. Partridge said they would add clear reporting to the policy.

Timeline Update

- DEIS release April 15
- 30 day comment period ends May 16
- Board approval of Preferred Alternative at June Board
- FEIS (with Board's Preferred alternative identified) released in late August
- Board Adoption of Policy for Sustainable Forests in September or October

PUBLIC COMMENT FOR GENERAL ITEMS OF INTEREST

Rod Fleck - Attorney -City of Forks

Mr. Fleck pointed out that the blue errata sheet should have the trust beneficiaries first and the ending should read "and the public is carrying out the Department's trust management activities". The way it's currently written might affect the ranking ten years down the road. He felt that SEPA could be problematic for economic analysis as well as for social implications. He felt that the plans should be flexible in the future. He agreed with Commissioner Sutherland's suggestion in aiding the reader to understand DNR's activities.

Bob Dick - American Forest Resource Council (AFRC)

Mr. Dick talked about local economic vitality saying that one of the things that would benefit the Department and local communities would be for a cooperative study that would look at the secondary benefits provided by trust land management. He suggested that there should be an educational outreach program that shows people what DNR does, why they do it, and how the trust lands really work.

Chair Sutherland announced that the 2005 annual Board retreat would be held in Pacific Cascade Region August 24th & 25th.

Chair Sutherland said he wanted the Board to be able to look at an active timber harvest, Willapa Harbor Spartina treatment, invasive species, and activity near Mount Saint Helen's. He asked the Board to feel free and suggest any items they might want to see as well.

Ms. Bergeson suggesting looking at Marbled Murrelet habitat.

Chair Sutherland announced the appointment of Randy Acker as the South Puget Sound Region Manager.

Chair Sutherland asked if there was anyone else present wishing to make comment before the Board?
Seeing none, hearing none.

Meeting adjourned at 11:30am.

Approved this ____ day of _____, 2005

Doug Sutherland, Commissioner of Public Lands

Bob Nichols for Governor Christine Gregoire

Bruce Bare, Dean, University of Washington

R. James Cook, Dean, Washington State University (Interim)

Terry Bergeson, Superintendent of Public Instruction

Ted Anderson, Commissioner, Skagit County

Attest:

Sasha Lange, Board Coordinator